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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,580	06/26/2001	Toshimitsu Taniguchi	10417-085001	3310
26211	7590	06/23/2004	EXAMINER	
FISH & RICHARDSON P.C. 45 ROCKEFELLER PLAZA, SUITE 2800 NEW YORK, NY 10111			ANYA, IGWE U	
			ART UNIT	PAPER NUMBER
			2825	

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/891,580	Applicant(s) TANIGUCHI ET AL.	
	Examiner Igwe U. Anya	Art Unit 2825	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 and 12 is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1 to 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (US Patent 5502009) in view of Sugahara (JP Patent 40813025).

4. Lin teaches a substrate (2) having a thin oxide layer (23) and an oxidation resistant film (24), on a first and second device formation regions (22, 21) respectively. A photoresist (200) masking the second device formation region (21) is used to remove the oxidation resistant film on the first device formation region (fig. 2B), removing the photoresist (fig. 2C), removing the oxide layer above the first device formation area

using the oxidation resistance film above the second device formation area as a mask (col. 3 lines 38 – 46), thermally growing a replacement oxide having a thicker film in the first device region using the oxidation resistant film on the second formation region as a mask (fig. 2D, col. 3 lines 47 – 52), and removing the oxidation resistant mask with any oxide above it on the second formation region without a photoresist using phosphoric acid etching, thereby leaving the thin oxide film in the second device formation area (col. 3 lines 52 – 60).

5. Lin lacks the step of removing the oxide layer on the second device formation region, and forming a new replacement oxide film by thermal oxidation.

6. However, Sugahara teaches a step of removing the oxide layer on the second device formation region subsequent to removing the oxidation resistant film on the second device formation region without a photoresist (fig. 1D), and replacing with a new oxide layer (fig. 1E element 23) by thermal oxidation thereby avoiding contamination (abstract).

7. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Sugahara into the Lin reference to remove the contaminated oxide layer of the second device formation region along with the oxidation resistant film on the second device formation region without a photoresist and form a new oxide layer by thermal oxidation to enhance reliability.

8. Claims 11 and 12 are allowable over the references of record, because none these references teaches or in combination render obvious a method comprising inter alia, implanting a second impurity layer of first conductive type having a low

Art Unit: 2825

concentration to connect first impurity layer, and implanting a third impurity layer of first conductive type having a high concentration in the first impurity layer.

Remarks

9. The examiner has reviewed prior art in light of applicant's comments and finds it unpersuasive. The Sugahara reference provides a clear motivation for replacing the oxide layer. The previous oxide layer is contaminated by wet etching, hence the replacement. In response to Applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is necessarily a reconstruction based upon hindsight reasoning. However, so long as it takes into account only knowledge, which was within the level of ordinary skill in the art at the time the invention was made, and does not include knowledge gleaned only from Applicant's disclosure, such a reconstruction is proper. In re McLaughlin, 443 F.2d 1392; 170 USPQ 209 (CCPA). **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2825

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igwe U. Anya whose telephone number is (571) 272-1887. The examiner can normally be reached on M - F 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Smith can be reached on (571) 272-1907. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Igwe U. Anya
Examiner
Art Unit 2825

IA

June 15, 2004.



MATTHEW SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800